

**ATTORNEY DISCIPLINARY CASES:
A GUIDE FOR HEARING OFFICERS**

Prepared by the Indiana Supreme Court,
Division of State Court Administration

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ATTORNEY DISCIPLINARY CASES

INTRODUCTION AND DISCLAIMER

This document is intended as a guide to assist hearing officers in the administration of duties involving attorney disciplinary cases. It was prepared by the staff of the Division of State Court Administration and is neither endorsed nor approved by the Indiana Supreme Court.

If you have questions, please contact the Indiana Supreme Court Division of State Court Administration at (317) 232-2542.

OVERVIEW

Indiana Admission and Discipline Rule 23 provides the framework for initiation and resolution of attorney discipline matters. The rule creates, organizes, and empowers the Indiana Supreme Court Disciplinary Commission and its staff. It also provides a procedure for filing grievances against attorneys, a system for the investigation of grievances, and a procedure for resolution should a grievance evolve into a formal complaint for disciplinary action against an attorney.

The Indiana Supreme Court may appoint up to three (3) hearing officers, who shall be members of the Bar of the Court and not members of the Disciplinary Commission, to preside over individual attorney disciplinary matters and to hear and determine charges. Admis.Disc.R. 23(11)(b). By custom and practice, the Court rarely appoints more than one hearing officer in attorney discipline cases.

The hearing officer guides the discovery process, conducts an evidentiary hearing, and submits a report to the Supreme Court. Admis.Disc.R. 23(13). While the formal rules of civil or criminal procedure do not apply strictly and a heightened standard of proof governs, this process is very similar to a civil bench trial in which there is a request for special findings of fact and conclusions of law.

As with most civil cases, the majority of attorney discipline matters never culminate in an evidentiary hearing. Instead, after the appointment of a hearing officer but before a hearing is conducted, the respondent and the Disciplinary Commission often reach an agreement for disposition of the complaint. Such “conditional agreements” are submitted to the Supreme Court for approval. Admis.Disc.R. 23(11)(c). The Court may approve a conditional agreement, reject a conditional agreement, or submit to the parties a proposed, alternative disposition. *Id.* When the Supreme Court rejects a conditional agreement, the Commission and the respondent often revise and resubmit their agreement to address the Court’s concerns, but should a case later go to trial, any prior conditional agreement is not admissible in evidence. *Id.*

In cases in which the hearing officer submits findings of fact to the Supreme Court following a hearing, the Supreme Court employs a *de novo* review of the entire record. However, the Supreme Court gives deference to the hearing officer's findings, particularly with regard to determinations as to the credibility of witnesses.

Hearing officers are paid for their work at rates established by the Supreme Court. A copy of the Supreme Court's 1993 fee schedule for hearing officers is attached in the "Appendix" to this document. Accordingly, hearing officers should itemize the time spent on cases and follow all applicable rules in seeking payment.

APPOINTMENT OF HEARING OFFICERS

The Supreme Court appoints a hearing officer upon the filing of a complaint for disciplinary action. The Disciplinary Commission files complaints when it determines that there is reasonable cause to believe the respondent is guilty of misconduct that would warrant disciplinary action. Admis.Disc.R. 23(11).

The Clerk of the Supreme Court will provide the hearing officer with a copy of the appointment order, the disciplinary complaint and any other filings in the case, and the acceptance of appointment and oath of office. The hearing officer should contact the Supreme Court Clerk's office at (317) 232-1930 if any of these materials are not provided.

The hearing officer must file with the Supreme Court Clerk's office the acceptance of appointment and oath within one (1) week after receipt of the appointment order. The hearing officer should distribute courtesy copies of the acceptance of appointment and oath to all counsel of record. A sample acceptance and oath form is included in the "Appendix" to this document.

The respondent, on a showing of good cause, may petition for a change of hearing officer within ten (10) days after the appointment of the hearing officer. Such petition should be filed with the Clerk of the Supreme Court, with a copy sent to the hearing officer and all counsel of record. Admis.Disc.R. 23(14)(a). The decision whether to grant a petition for change of hearing officer belongs exclusively to the Supreme Court and not to the hearing officer.

AUTHORITY OF HEARING OFFICERS

The authority of the Hearing Officer is found in Admis.Disc.R. 23(13):

In addition to the powers and duties set forth in the rule, hearing officers have the power and duty to:

- (a) Conduct a hearing on a complaint of misconduct within sixty (60) days after the hearing officer is appointed and has qualified;
- (b) Administer oaths to witnesses;

- (c) Receive evidence and make written findings of fact and recommendations to the Court; and
- (d) Do all things necessary and proper to carry out their responsibilities under this rule.

NOTE: Although this Rule requires the setting of a hearing within sixty (60) days, the first setting is often used as an attorney status conference or pre-hearing conference so that the hearing officer can become familiar with the issues in this case. The Disciplinary Commission routinely seeks the setting of a pre-hearing conference, but the hearing officer may schedule such a hearing *sua sponte*. There is no prohibition against conducting the pre-trial conference telephonically. Generally, hearing officers schedule pre-trial conferences after the respondent has answered the complaint, as such scheduling results in a pre-trial conference being held after the issues have been narrowed.

FILINGS

All pleadings, motions, and orders subsequent to the complaint, which are required to be served upon a party, must be filed with the Supreme Court Clerk's office, 217 State House, Indianapolis, IN 46204. Admis.Disc.R. 23(11.2). All documents tendered to the Clerk for filing must be served by the Clerk upon all parties or their counsel and the hearing officer.

The Supreme Court Clerk's office maintains the official record of the disciplinary proceeding and will archive it after its conclusion. Therefore, the hearing officer may maintain a case file during the pendency of the matter, but is not required to maintain the file after the conclusion of the case.

Pleadings and orders in disciplinary cases should not be filed in the trial court clerk's office in the county in which the hearing officer resides, works or conducts a disciplinary hearing.

VERIFIED COMPLAINT AND SUMMONS

In the event that the Commission determines that the misconduct would warrant disciplinary action and should not be disposed of through administrative action, then the Executive Secretary prepares a summons and verified complaint setting forth the misconduct and prosecutes the case. The complaint and summons are served upon the respondent.

ANSWERS TO THE COMPLAINT

An answer is required and must be filed within thirty (30) days after service of the summons and complaint or such additional time as may be allowed upon written application to the hearing officer setting forth good cause. Admis.Disc.R. 23(14)(a).

A written application for enlargement of time to answer, if filed on or before the due date

of the answer, shall be automatically allowed for an additional thirty (30) days from the original due date **without a written order** of the hearing officer. Any further motion for enlargement of time to answer must be sought by written motion and shall be granted by the hearing officer only for good cause shown. Admis.Disc.R. 23(14)(a). Should the first motion for extension of time to answer be filed before a hearing officer is appointed, the extension is still deemed granted upon filing without an order.

The answer shall admit or controvert specifically the averments set forth in the complaint. If the respondent lacks knowledge or information sufficient to form a belief as to the truth of an averment, the respondent shall so state and his statement shall be considered a denial. Adm.Disc.R. 23(14)(b).

Averments in a complaint are admitted when not denied in the answer. An answer may assert any legal defense. *Id.*

PRE-HEARING AND DISCOVERY MATTERS

Information concerning pre-hearing and discovery matters is found in Admis.Disc.R. 23(14):

- The rules of pleading and practice in civil cases do not apply.
- No motion to dismiss or dilatory motions shall be entertained.
- Discovery is available to the parties on terms and conditions that, as nearly as practicable, follow the Indiana Rules of Civil Procedure pertaining to discovery proceedings.
- All notices connected with processing of the disciplinary complaint shall be issued only under the direction of the hearing officer or hearing officers. No other court or judicial officer (with the exception of the Supreme Court under circumstances set forth in Admis.Disc.R. 23) shall have jurisdiction to issue any order or process in connection with a disciplinary complaint.
- Upon request of a party, the hearing officer may issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party or that party's attorney, who shall complete it before service.
- The hearing officer may also authorize counsel acting in a representative capacity to issue and sign such subpoena as an officer of the court. Accordingly, it is not permissible for a respondent attorney, acting pro se, to sign subpoenas.
- Subpoenas for the attendance of witnesses and production of documentary evidence shall conform to the provisions of Ind. Trial Rule 45.
- The hearing officer shall have authority to enforce, quash or modify subpoenas upon proper application by an interested party or witness.
- A Pre-Hearing Conference is to be held at the discretion of the hearing officer or upon request of either party. The purpose of the pre-hearing conference is to: (1) obtain admissions; (2) narrow issues; (3) require witness lists, including addresses, and the general nature of testimony; (4) consider Amendments to

the Complaint or Answer; and (5) other matters deemed proper by the hearing officer.

NOTE: Hearing officers are encouraged to set deadlines (completion of discovery, filing of witness and exhibit lists, etc.) either by order or at the pre-hearing conference. Without such deadlines, a party may appear at hearing with witnesses or documents not seen by opposing counsel and use this technique to secure a continuance.

JUDGMENT ON THE COMPLAINT

Should the respondent fail to answer the complaint, the Disciplinary Commission may move for judgment on the complaint. Upon a motion for judgment on the complaint and in the absence of any answer by the respondent, the hearing officer shall take the facts alleged in the complaint as true and promptly render a report to the Supreme Court. The use of the word "shall" in the rule appears to remove the hearing officer's discretion to decline to render a judgment on the complaint in the absence of an answer by the respondent. The report shall be in conformity with the provision of the findings of fact following a hearing. (*See Findings, infra.*)

Notice of the Disciplinary Commission's motion for judgment on the complaint must be served on the respondent, or counsel if represented, at least seven (7) days before a hearing on the motion. Admis.Disc.R. 23(14)(c). Hearing on the motion for judgment on the complaint need only be held if the respondent has appeared in person or by counsel.

EVIDENTIARY HEARING

Information concerning proceedings before the hearing officer is found in Admis.Disc.R. 23(14).

- Rules of pleading and practice in civil cases shall not apply; a hearing officer may use such rules as guidance.
- No motions to dismiss or dilatory motions shall be entertained. Accordingly, the hearing officer has no authority to grant or entertain dispositive motions such as motions to dismiss or motions for summary judgment. If such a motion is filed, the hearing officer may simply refuse to entertain the motion.
- The case is heard on the complaint and answer.
- Written notice of a hearing date must be given to parties not less than fifteen (15) days prior to such hearing.
- Respondent shall have the right to: (1) attend the hearing in person; (2) be represented by counsel; (3) cross examine the witnesses; (4) both produce and require the production of evidence and witnesses on his or her behalf at the hearing as in civil proceedings.
- The proceeding may be summary in form and shall be without jury.
- The proceeding shall be reported. The hearing officer may require the transcription of the hearing to assist in preparation of the findings of fact and conclusions of law. Also, either party may ask the hearing officer to order such transcription. In some cases, the audiotape of the hearing, rather than a

- transcription of that tape, has been made part of the official record of proceedings.
- Transcript costs shall be borne by the party requesting preparation of the transcript. Should the hearing officer request production of the transcript for preparation of findings of fact, the cost of the transcript shall be borne by the Supreme Court.

The hearing officer may choose the site for any hearing. If the hearing officer is a judge, the hearing officer may set the hearing in the hearing officer's courtroom. All hearing officers, however, may opt to conduct any hearings in Supreme Court facilities in downtown Indianapolis. The Disciplinary Commission also has a conference room at its offices in downtown Indianapolis that may be used for hearings. The hearing officer should contact the Disciplinary Commission about the availability of such space before setting a hearing in those facilities. Hearings may also be held at any other location that is convenient to the parties or witnesses.

FINDINGS

Information concerning the Findings of Fact and Conclusions of Law is found in Admis.Disc.R. 23(14). The Disciplinary Commission must prove misconduct by clear and convincing evidence. After the conclusion of the hearing, the hearing officer shall determine within thirty (30) days whether misconduct has been proven and submit to the Supreme Court written findings of fact and conclusions of law. The hearing officer also may make a recommendation, at the request of either party or on the hearing officer's own motion, concerning disposition of the case and the imposition of discipline. These findings of fact, conclusions of law and recommendation are not binding on the Supreme Court, which reviews disciplinary matters *de novo*.

The hearing officer shall serve a copy of findings and any recommendation to the Respondent or counsel for the Respondent and the Executive Secretary of the Disciplinary Commission or trial counsel for the Disciplinary Commission at the time of filing with the Supreme Court.

In the Findings, the Hearing Officer may include the following information, based on evidence submitted at hearing:

- A showing that Respondent is an attorney admitted to practice law in Indiana (jurisdictional);
- The burden of proof used;
- Factual findings;
- Legal conclusions (rules violated);
- Any aggravating circumstances, including, but not limited to, prior disciplinary actions and sanctions, lack of personal accountability for various acts of professional misconduct, disregard for ethical rules, actual or potential harm to clients, disregard for clients, and pattern of misconduct; and,
- Any mitigating circumstances, including, but not limited to, cooperation at hearing and with the Disciplinary Commission, remorse for harm caused to clients, respondent's mental state, seeking psychiatric or professional help, no

prior disciplinary actions, admitted wrongdoing, and the misconduct was an isolated occurrence. *See e.g.*, Standards of Imposing Lawyer Sanctions, American Bar Association, 1991 Edition.

- A recommendation as to the discipline to be imposed is optional.

SANCTIONS

The hearing officer may make a recommendation as to sanction *sua sponte* or upon request by either of the parties. This recommendation is not binding on the Court.

Sanctions, pursuant to Admis.Disc.R. 23(3)(a), include, but are not limited to:

- a private reprimand;
- a public reprimand;
- probation;
- suspension from the practice of law for a definite or indefinite period of time (with or without the requirement the respondent formally petition the Supreme Court should he later choose to seek readmission); or,
- disbarment.

Any suspension for a period of more than six (6) months must be without automatic reinstatement. An attorney who has been disbarred may never petition the Supreme Court for readmission. Sanctions also may include conditions, such as participation in counseling, treatment, education, or continued monitoring by the Commission. Often, the Judges and Lawyers Assistance Program (JLAP) is involved in appropriate cases in which such probationary or aftercare terms are used.

SUSPENSION PENDING FINAL RESOLUTION

The Commission may seek suspension of an attorney prior to hearing under certain circumstances. Admis.Disc.R. 23(11.1). The Supreme Court rules on such motions, not the hearing officer. A hearing officer does not have authority to order the suspension of a respondent. However, a hearing officer may be asked to conduct a hearing on an interim suspension request, as set forth below.

A. Suspension pending prosecution

The Commission will move for suspension pending prosecution upon two-thirds vote of the Commission members that: 1) the continuation of the practice of law by an attorney during the pendency of a disciplinary investigation or proceeding may pose a substantial threat of harm to the public, clients, potential clients, or the administration of justice, and 2) the alleged conduct, if true, would subject the respondent to disciplinary sanctions. Admis.Disc.R. 23(11.1)(b). The respondent has fourteen (14) days after service of the petition to respond. The Court may grant or deny the petition for suspension or refer the matter to the hearing officer.

If a petition for interim suspension is referred to a hearing officer, the hearing officer must conduct a hearing on the suspension within thirty (30) days of the date of referral

and render a report to the Court within fourteen (14) days of the hearing. Admis.Disc.R. 23(11.1)(b)(4). The procedures employed at the hearing on the interim suspension are the same as those used for the final hearing upon the complaint and answer. Thus, the Commission typically makes the first presentation of evidence and has the right to open and close argument. However, the Commission's burden of proof in an interim suspension hearing differs from that applicable to the final hearing on the complaint. The Commission must prove by a preponderance of the evidence that an interim suspension is merited. At the final hearing, the Commission must prove by clear and convincing evidence the misconduct charged in the complaint.

NOTE: Generally, interim suspension hearings focus on the most serious charges allegedly justifying the interim suspension.

Admission and Discipline Rule 23(14) provides that the hearing officer's report to the Court must contain findings of fact and a recommendation as to suspension. The hearing officer's report will also contain conclusions of law, even though Admis.Disc.R. 23 does not specifically refer to this component. The Court may order the interim suspension or impose temporary conditions of probation where the Commission has shown by a preponderance of the evidence that the respondent's continued practice of law during the pendency of the disciplinary investigation or proceeding may pose a substantial threat of harm to the public, clients, potential clients, or the administration of justice, and the conduct would subject the respondent to disciplinary sanctions. Admis.Disc.R. 23(11.1)(b)(5). The order of suspension or probation will remain in effect until disposition of the disciplinary proceeding or further order of the Court.

The respondent may seek the dissolution or amendment of the interim suspension or probation by filing with the Supreme Court a verified motion setting forth specific facts demonstrating good cause. Admis.Disc.R. 23(11.1)(b)(6). The Court may refer the motion to a hearing officer, who shall proceed according to Admis.Disc.R. 23(11.1)(b)(5): the hearing officer shall conduct a hearing on the motion within 30 days of the date of referral and render a report to the Court – including findings of fact and a recommendation – within fourteen (14) days of the hearing.

If an interim suspension or probation is ordered and no disciplinary complaint has been filed, the Commission must file a complaint for disciplinary action within sixty (60) days of the interim suspension or probation. Admis.Disc.R. 23(11.1)(b)(7). Where the respondent is under interim suspension or probation, the hearing officer must expedite disposition of the disciplinary complaint. *Id.*

B. Suspension upon guilty finding

An interim suspension also may be sought where an attorney licensed in Indiana is found guilty of a crime punishable as a felony under the laws of any state or the United States. Admis.Disc.R. 23(11.1)(a). The Disciplinary Commission is obligated to inform the Supreme Court of the conviction, and the Supreme Court may suspend the attorney

pending final resolution of resulting disciplinary charges. Typically, a hearing officer is not directly involved in these proceedings.

C. Suspension for failure to cooperate with Disciplinary Commission

An attorney's failure to cooperate with the Disciplinary Commission's investigation of that attorney may result in the interim suspension of that attorney. *See* Admis.Disc.R. 23(10)(f). Such suspensions may be based on a failure to submit a written response to pending allegations of professional misconduct, to accept certified mail from the Commission, to respond to a subpoena from the Commission, to appear at any hearing on the matter under investigation, or to comply with any other lawful demand for information made by the Commission. *Id.* The Commission's request for a noncooperation suspension is filed with the Supreme Court, which issues a show cause order directing the attorney to respond within ten (10) days. The Court may suspend the attorney thereafter, with or without a hearing, upon a finding that the attorney failed to cooperate as outlined in Adm.Disc.R. 23(10)(f). This rule does not provide for referral of the matter to a hearing officer. A similar procedure attaches to an attorney's delinquency in the payment of child support. Admis.Disc.R. 23(11.1)(c). Upon resolution of "noncooperation" matters, the Supreme Court may impose costs upon the respondent attorney. Admis.Disc.R. 23(10)(f)(5).

PROCEEDINGS TO DETERMINE DISABILITY

Admission and Discipline Rule 23(25) provides a procedure where the Disciplinary Commission may move for a proceeding to determine whether an attorney is disabled by reason of physical or mental illness or infirmity, or because of the use of or addiction to intoxicants or drugs. Such a proceeding may be initiated by a member of the Commission, a member of the bar, the Executive Secretary, any individual or any bar association of this State by the filing of a verified petition with the Commission alleging the attorney is disabled. Admis.Disc.R. 25(a). If the petition is filed by an Indiana attorney, an individual or by a bar association, the Executive Secretary of the Commission conducts an investigation and makes a report to the Commission with a recommendation to the Commission at its next meeting. Admis.Disc.R. 25(b).

If the Disciplinary Commission determines that there is good reason to believe that a disability exists which would justify suspension of the attorney named in the petition, the Commission will move the Supreme Court for a hearing to determine whether the attorney should be suspended. Admis.Disc.R. 25(c). The Commission may request the Supreme Court to appoint one or more hearing officers to conduct that hearing. The hearing officer(s) may, but shall not be required to be, a member of the Disciplinary Commission. *Id.* The hearing officer has the same powers as a hearing officer appointed to hear a complaint of professional misconduct. Admis.Disc.R. 23(13), (18)(b) and (25)(c). The hearing officer shall submit written findings and recommendations to the Commission, rather than directly to the Court. *Id.* The Admission and Discipline Rules do not impose a deadline on submission of such findings, but hearing officers should attempt to submit their findings and recommendations to the Commission within thirty

(30) days after the final hearing.

After receipt of the hearing officer's findings and recommendations, the Commission reports its findings and recommendations to the Supreme Court. If the Commission recommends suspension, the respondent attorney may petition the Supreme Court for review of those findings within thirty (30) days of the filing of the report and recommendation. If no petition for review is filed, the Court enters an order of suspension for the duration of the attorney's disability. Admis.Disc.R. 23(25)(d).

PETITIONS FOR REINSTATEMENT

The Supreme Court may appoint a hearing officer, at the Commission's request, to hear a petition for reinstatement from an attorney who has been suspended or who has resigned from the bar. The rule provides that a hearing officer for a petition for reinstatement may, but shall not be required to be, a member of the Disciplinary Commission. Such a hearing officer has the same powers as a hearing officer appointed to hear a complaint of professional misconduct. Admis.Disc.R. 23(13), (18)(b) and (25)(c). The hearing officer shall determine whether the petitioner has met the requirements set forth in Admis.Disc.R. 23(4) and make written findings and recommendations to the Commission. Admis.Disc.R. 23(18)(b). The Admission and Discipline Rules do not impose a deadline on submission of such findings, but hearing officers should attempt to submit their findings and recommendations to the Commission within thirty (30) days after the hearing.

After receipt of the hearing officer's recommendations, the full Commission submits its recommendation to the Supreme Court. The applicant for reinstatement may petition the Supreme Court for a review of the recommendation within thirty (30) days after that recommendation is filed. *Id.*

PUBLIC DISCLOSURE

Information concerning public disclosure of disciplinary proceedings is found in Admis.Disc.R. 23(22).

After a verified complaint has been filed with the Supreme Court, all proceedings and all papers filed of record with the Clerk, except adjudicative deliberations, shall be open and available to the public.

Proceedings and papers that relate to matters that have not resulted in the filing of a verified complaint shall not be open and available to the public. Investigative reports and other work product of the Disciplinary Commission shall be confidential and not open to public inspection.

Hearings before hearing officers shall be open to the public. However, hearing officers may, in the exercise of sound discretion, order a closed hearing or other appropriate relief on the motion of the hearing officer, or at the request of the Commission or the

respondent, if, in the opinion of such hearing officer, the conduct of a closed hearing is necessary for any of the following purposes:

- (1) For the protection of witnesses;
- (2) To prevent likely disruption of the proceedings;
- (3) For the security of the hearing officer, or any of the parties to the proceedings;
- (4) To prevent the unauthorized disclosure of attorney-client confidences not at issue in the proceeding;
- (5) For any other good cause shown which in the judgment of the hearing officer requires such hearing to be closed.

If the hearing officer closes the hearing, an order to that effect setting forth the reasons for the closure should be filed before the hearing is conducted. Hearing officers also have the authority to seal specific documents for the same reasons as would justify closure of the hearing.

MISCELLANEOUS MATTERS

Pauper counsel requests and reimbursement of items of expense:

The Admission and Discipline Rules do not speak to the issue of pauper counsel or payment of expert witnesses and other investigatory costs. In at least two instances, one in a published opinion, the Supreme Court has ruled that pauper counsel is not available to respondents. *See, e.g., Matter of McCord*, 722 N.E.2d 820, 822 (Ind. 2000) (“There is no right to appointment of pauper counsel at public expense in an attorney disciplinary proceeding.....Accordingly, the fact that the hearing officer denied the respondent's request for pauper counsel in this case does not indicate that the respondent was denied due process.”)

Motions to dismiss:

Admission and Discipline Rule 23(14) provides that, during proceedings before the hearing officer, no motions to dismiss shall be entertained. However, motions to dismiss are sometimes filed by the respondent or the Disciplinary Commission during the pendency of proceedings before the hearing officer. For example, the Disciplinary Commission might move for dismissal of the verified complaint upon reconsideration of its initial determination of probable cause, or the respondent might move to dismiss the verified complaint upon jurisdictional grounds. *See, e.g., Matter of Fletcher*, 655 N.E.2d 58 (Ind. 1995) (respondent's motion to dismiss based on alleged lack of jurisdiction of Supreme Court due to *pro hac vice* appointment was denied). Such motions will be considered and resolved by the Supreme Court directly without intervention of the hearing officer.

Appeals from hearing officer decisions made prior to final hearing:

Neither the respondent nor the Commission may appeal to the Supreme Court any pre-hearing rulings of the hearing officer before final judgment.

Conditional agreements:

The parties submit all conditional agreements that might dispose of the disciplinary case to the Supreme Court, without review by the hearing officer. Those agreements are not filed with the Clerk's office. Instead, they are submitted to the Division of State Court Administration, which presents them to the Supreme Court. If approved, the Court issues an order or opinion imposing the agreed sanction.

Supreme Court Review:

Once the hearing officer files the findings with the Supreme Court, the hearing officer's involvement in the case generally concludes, despite the fact that the Disciplinary Commission and the respondent may seek review of those findings by the Supreme Court. Admis.Disc.R. 23(15). The hearing officer will file findings in the Supreme Court Clerk's office. Generally, the hearing officer's file (i.e., pleadings filed before the hearing officer, exhibits, etc.) is transmitted to the Supreme Court Clerk at this time. The hearing officer may also submit an itemized statement of services rendered so that the Supreme Court may compensate the hearing officer for her service, pursuant to the order issued by the Supreme Court in 1993 (see attachment to this manual).

Record on review:

Where a party files a petition for review challenging a factual finding by the hearing officer, the petitioner is required to file a record of all the evidence before the hearing officer relating to the factual issue. The record should include a transcript, which must be "settled, signed and certified as true and correct by the hearing officer." Admis.Disc.R. 23(15)(c). The party requesting the transcript pays the costs of the transcript.

APPENDIX

PAYMENT SCHEDULE FOR HEARING OFFICERS
ACCEPTANCE OF APPOINTMENT AS HEARING OFFICER AND OATH
OF OFFICE FORM

PAYMENT SCHEDULE FOR HEARING OFFICERS



IN THE MATTER OF

SUPREME COURT OF INDIANA

IN THE MATTER OF)
FEES PAID TO HEARING OFFICERS) Case No. 94500-930645-645
IN DISCIPLINARY CASES)

ORDER ESTABLISHING PAYMENT SCHEDULE FOR HEARING OFFICERS

Whenever this Court appoints a hearing officer to preside over an attorney disciplinary proceeding pursuant to Admission and Discipline Rule 23, said hearing officer shall be compensated in accordance with the following schedule of payment:

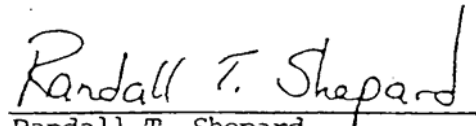
For the preparation of all entries, study, research
and all necessary non-hearing service \$70.00 per hour
For either pretrial or trial hearing \$280.00 per day
For hearing of 1/2 day or less \$140.00 per day
For reviewing evidence and preparing findings
of fact and conclusions \$70.00 per hour
For all necessary out of pocket expenses
(telephone calls, postage, etc.) ALL EXPENSES
For all travel necessary to the conduct of such case \$.25 per mile

At the termination of all services in a particular case, the hearing officer should submit a statement of services pursuant to the above schedule. The statement should be forwarded to the Supreme Court Administrator, 200 West Washington Street, Room 312, Indianapolis, IN 46204.

The Clerk of this Court is directed to transmit a copy of this ORDER with every ORDER APPOINTING A HEARING OFFICER to the appointed hearing officer.

This schedule of payment shall be effective for hearing officer appointments made after the issuance of this ORDER. Compensation for previously appointed hearing officers is governed by this Court's ORDER of August 30, 1985.

DONE at Indianapolis, Indiana, this 16th day of June, 1993.


Randall T. Shepard
Chief Justice of Indiana

All Justices concur.

IN THE
SUPREME COURT OF INDIANA

IN THE MATTER OF)
)
) Cause No.
)

ACCEPTANCE OF APPOINTMENT AS HEARING OFFICER
AND
OATH OF OFFICE

I, _____, having been appointed as
Hearing Officer in this matter of the _____ day of _____, 20____, do
hereby accept such appointment and do solemnly swear that I will uphold the
Constitution and the Laws of the United States of America and the Constitution and Laws
of Indiana, and will honestly and faithfully discharge my duties to the best of my ability,
So Help Me God.

Hearing Officer

Dated: _____